

increase in tax has been taken into account. The number of taxable years over which such total increase shall be taken into account shall be equal to the number of taxable years for which a recomputation of tax is required to be made under subparagraph (1) of this paragraph as limited by subparagraph (2) of this paragraph and for which such recomputation results in a reduction of the taxpayer's depletion allowance under subparagraph (3)(ii) of this paragraph. The amount of the increase in tax which is to be taken into account in a taxable year is determined by dividing the total increase in tax by the number of taxable years over which such total increase is to be taken into account. The tax imposed by chapter I of the Code for each of the taxable years over which the total increase in tax is to be taken into account shall be increased by the amount determined in accordance with the preceding sentence. However, such increase in tax for each of such taxable years shall have no effect upon the determination of the amount of any credit against the tax for any of such taxable years. For example, the amount of such increase shall not affect the computation of the limitation on the foreign tax credit under section 904. The amount of the increase in tax which is required to be taken into account by the taxpayer in a particular taxable year under section 614(c)(4)(C) shall be treated as a tax imposed with respect to such taxable years even though, without regard to section 614(c)(4) and this paragraph, such taxpayer would otherwise have no tax liability for such taxable year.

(ii) *Increase in tax not determinable as of first taxable year of aggregation.* If the recomputation of tax under subparagraph (3) of this paragraph, for any taxable year or years prior to the first taxable year to which the election to form an aggregation or aggregations under section 614(c)(1) applies, results in a reduction of any net operating loss carryover to a taxable year subsequent to such first taxable year, then the total increase in tax resulting from the recomputation is not determinable as of such first taxable year. In such case, the total increase in tax shall be taken into account in equal installments in the first taxable year for which such

total increase is determinable and in each succeeding taxable year for which a portion of the increase in tax would have been taken into account under subdivision (i) of this subparagraph if the total increase had been determinable as of the first taxable year to which the election to form the aggregation or aggregations under section 614(c)(1) applies. The provisions of this subdivision may be illustrated by the following example:

Example. Assume that taxpayer A elects under section 614(c)(1) to form an aggregation for 1960 and all subsequent taxable years. Assume further that taxpayer A is required to recompute his tax for four prior taxable years under subparagraphs (1) and (2) of this paragraph and that the recomputation for each of such taxable years results in a reduction of taxpayer A's depletion allowance. Under subdivision (i) of this subparagraph, the total increase in tax resulting from the recomputation is to be taken into account in equal installments in 1960, 1961, 1962, and 1963. However, if the total increase in tax is not determinable until 1961 because the recomputation for the prior taxable years results in the reduction of a net operating loss carryover to 1961, then the total increase shall be taken into account in equal installments in 1961, 1962, and 1963. In like manner, if the total increase in tax is not determinable until 1962, it shall be taken into account in equal installments in 1962 and 1963.

(iii) *Death or cessation of existence of taxpayer.* If the taxpayer dies or ceases to exist, the portion of the increase in tax determined under subparagraph (3)(v) of this paragraph which has not been taken into account under subdivision (i) or (ii) of this subparagraph for taxable years prior to the taxable year of the occurrence of such death or such cessation of existence, as the case may be, shall be taken into account for the taxable year in which such death or such cessation of existence, as the case may be, occurs.

(5) *Adjustments to basis of aggregated property.* If the taxpayer elects to form an aggregated property or properties under section 614(c)(1) for a taxable year and if a recomputation of tax is required to be made for any taxable year which results in reduction of the depletion allowance previously deducted by the taxpayer for such year, then proper adjustments shall be made with respect to the adjusted basis of

such aggregated property or properties. In such a case:

(i) If the sum of the depletion allowances actually deducted with respect to the interests included in a constructed aggregated property exceeds the depletion allowance computed under subparagraph (3)(ii) of this paragraph with respect to such constructed aggregated property, the adjusted basis of the aggregated property formed under section 614(c)(1) shall be increased by such excess, and

(ii) If the depletion allowance computed under subparagraph (3)(ii) of this paragraph with respect to a constructed aggregated property exceeds the sum of the depletion allowances actually deducted with respect to the interests included in such constructed aggregated property, the adjusted basis of the aggregated property formed under section 614(c)(1) shall be reduced (but not below zero) by such excess.

However, the adjusted basis of an aggregated property formed under section 614(c)(1) may be increased only to the extent such excess would have resulted in an increase in such adjusted basis if taken into account under paragraph (a) of § 1.614-6. Thus, if depletion previously allowed with respect to the separate operating mineral interests included in the aggregation formed under section 614(c)(1) exceeds the total of the unadjusted bases of such interests by \$5,000, and if the recomputation of tax required to be made under this paragraph results in a depletion allowance which is \$7,000 less than the depletion actually deducted with respect to such interests, then the adjusted basis of such aggregation may be increased by only \$2,000. If, with respect to the same aggregated property formed under section 614(c)(1), adjustments to adjusted basis are required under this subparagraph as a result of recomputation of tax for two or more taxable years, the total or net amount of such adjustments shall be taken into account. Any adjustment to the adjusted basis of an aggregation required by this subparagraph shall be taken into account as of the effective date of the election to form such aggregation under section 614(c)(1) and shall be effective for all purposes of subtitle A of the Code. For other rules relating to

the determination of the adjusted basis of an aggregated property, see paragraph (a) of § 1.614-6.

[T.D. 6524, 26 FR 150, Jan. 10, 1961, as amended by T.D. 7170, 37 FR 5382, Mar. 15, 1972; T.D. 7564, 43 FR 40494, Sept. 12, 1978]

§ 1.614-4 Treatment under the Internal Revenue Code of 1939 with respect to separate operating mineral interests for taxable years beginning before January 1, 1964, in the case of oil and gas wells.

(a) *General rule.* (1) All references in this section to section 614(b) or any paragraph or subparagraph thereof are references to section 614(b) or a paragraph or subparagraph thereof as it existed prior to its amendment by section 226(a) of the Revenue Act of 1964. All references in this section to section 614(d) are references to section 614(d) as it existed prior to its amendment by section 226(b)(3) of the Revenue Act of 1964.

(2) For taxable years beginning before January 1, 1964, in the case of oil and gas wells, a taxpayer may treat under section 614(d) and this section any property as if section 614 (a) and (b) had not been enacted. For purposes of this section, the term *property* means each separate operating mineral interest owned by the taxpayer in each mineral deposit in each separate tract or parcel of land. Separate tracts or parcels of land exist not only when areas of land are separated geographically, but also when areas of land are separated by means of the execution of conveyances or leases. If the taxpayer treats any property or properties under this section, the taxpayer must treat each such property as a separate property except that the taxpayer may treat any two or more properties that are included within the same tract or parcel of land as a single property provided such treatment is consistently followed. If the taxpayer treats two or more properties as a single property under this section, such properties shall be considered as a single property for all purposes of subtitle A of the Internal Revenue Code of 1954. The taxpayer may not make more than one combination of properties within the same tract or parcel of land. Thus, if the taxpayer treats two or more properties that are included within the